



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/683,353	12/18/2001	Victor I. Deonarine	ITW7510.008	3939

33647 7590 02/27/2003

ZIOLKOWSKI PATENT SOLUTIONS GROUP, LLC (ITW)
14135 NORTH CEDARBURG ROAD
MEQUON, WI 53097

EXAMINER

DEJESUS, LYDIA M

ART UNIT PAPER NUMBER

2859

DATE MAILED: 02/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/683,353

Applicant(s)

DEONARINE, VICTOR I.

Examiner

Lydia M. De Jesús

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,6,9-11 and 14-20 is/are rejected.
- 7) ☒ Claim(s) 2,4,7,8,12 and 13 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed February 11, 2003 fails to comply with 37 CFR 1.97(c) because it lacks a statement as specified in 37 CFR 1.97(e). It has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 16 and 17 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Ribi.

Ribi discloses a dual temperature indicator stick apparatus [10], illustrated in Figure 1, comprising: first means [16] for indicating a first temperature; second means [18] for indicating a second temperature; and means [14] for retaining the first means to the second means in a side-by-side relationship to form an indicator stick assembly capable of indicating at least two temperatures. Said apparatus further comprises a means i.e., handle [12], for controlling movement of the first and second means.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

Art Unit: 2859

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3, 5, 6, 9 and 16-20 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over OMEGAMARKER® Temperature Test Kit [hereinafter OMEGAMARKER®] in view of Deats.

OMEGAMARKER® discloses a kit of temperature indicator sticks in the form of crayons of different colors and each temperature indicator stick melts at a predetermined temperature. OMEGAMARKER® also shows the use a holder/housing for each crayon.

OMEGAMARKER® fails to disclose a connector physically connecting a first and second indicators.

Deats teaches that it is very well known in the art to physically connecting two marking utensils i.e., pencils, along different axes slidably secured by a connector in a side-by-side relationship. Said connector comprises a longitudinal member [7] having curved ends [1,2] configured to secure the two marking utensils to the connector. Said curved ends include a pair of curved sections, as shown in Figure 2. Said connector slidably secures the two marking utensils in a side-by-side relationship and further includes a clip member [8] configured to permit attachment of the connector to an object.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add a connector device for two different indicator sticks in the OMEGAMARKER® kit, as suggested by Deats, in order to provide an indicator assembly for marking two commonly used thresholds.

With respect to claims 16-20: The resulting assembly comprises a first means for indicating a first temperature, said first means comprising a first temperature indicator stick; a

Art Unit: 2859

second means for indicating a second temperature, said second means comprising a second temperature indicating stick; means for retaining the first means to the second means in a side-by-side relationship to form an indicator stick assembly capable of indicating at least two temperatures, said retaining means comprising a pair of tubular members [1,2] secured together by a connector that includes a longitudinal member [7] having curved ends [1,2] integrally molded to each of the tubular members, said retaining means considered to serve as a means for controlling the movement of the first and second means.

6. Claims 10, 11, 14, and 15 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Whitfield et al. [hereinafter Whitfield] in view of Deats.

Whitfield discloses a housing element for a temperature indicator stick in the form of a pencil holder having an advancement mechanism engaging the temperature indicator stick [28] and configured to extend the temperature indicator stick from the housing upon rotation of the advancement mechanism [32].

Whitfield fails to disclose a connector assembly.

Deats shows that a connector assembly receiving two marking utensils i.e., pencils, is very well known in the art. The connector includes a clamp (3+5+1+2) to align the two pencils align different axes in a side-by-side relationship. Said clamp has a longitudinal member [7] having curved ends [1,2], the curved ends configured to slidingly secure the two pencils in a side-by-side relationship.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a connector for connecting two of the temperature indicator

Art Unit: 2859

housing elements of Whitfield, as taught by Deats, in order to have a spare indicator pencil at hand.

Allowable Subject Matter

7. Claims 2, 4, 7, 8 and 12-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter:

Claim 2 has been found to be allowable over the Prior Art of record because the Prior Art of record fails to teach or suggest a dual temperature indicator stick assembly including a pair of collets having threads and each being rotatably coupled to the housing and configured to engage separate temperature indicating sticks upon rotation of the collet about the housing, in combination with limitations of claim 1.

Claim 4 has been found to be allowable over the Prior Art of record because the Prior Art of record fails to teach or suggest a dual temperature indicator stick assembly that in addition to the limitations of claim 3, includes hooks on the curved ends of the connector configured to engage the first and second indicator stick housings to prevent rotation of the first and second indicator stick housing.

Claim 7 has been found to be allowable over the Prior Art of record due to its dependence upon the language of claim 4.

Claim 12 has been found to be allowable over the Prior Art of record because the Prior Art of record fails to teach or suggest a dual indicator stick holder comprising a connector assembly which, in addition to the limitations of the preceding claims, includes a pair of

Art Unit: 2859

resistance mechanisms attached to one of the first and second housing elements to limit rotational movement of the two temperature indicator sticks.

Claim 13 has been found to be allowable over the Prior Art of record because the Prior Art of record fails to teach or suggest a dual indicator stick holder wherein the housings, in addition to the limitations of the claims 10 and 11, has a groove on an outer surface to engage an end of a clamp and prevent rotation of the first and second housing elements.

Response to Arguments

9. Applicant's arguments filed February 11, 2003 have been fully considered but they are not persuasive.

In response to Applicant's argument regarding the rejection of claims 16 and 17 over Ribl stating that Ribl does not disclose a first and second means for detecting a first and second temperature but rather a single means of determining multiple temperature: Since the probe 10 disclosed by Ribl shows individual stripes i.e., 16/18/20, indicating different temperature, each indicator stripe is considered a separate means for indicating. Moreover, the claim language does not preclude the first and second indicating means to be mounted on the same structure. The rejection is hence considered to be proper.

In response to Applicant's argument stating that the rejection of claims 1, 3, 5, 6, 9 and 16-20 are not sustainable because the date corresponding to the OMEGAMARKER® was not provided: Enclosed in this communication is a copy of page F-10 of The Temperature Handbook, published by OMEGA® Engineering, Inc. confirming publication of a description of the OMEGAMARKER® Temperature Test Kit as of 1995. The rejection is hence considered to be proper. Moreover, Applicant's arguments to the rejections based on OMEGAMARKER® do

Art Unit: 2859

not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

In response to Applicant's arguments regarding the rejection of claims 10,11 and 14-15 under Whitfield et al. in view of Deats stating that Whitfield does not disclose a temperature indicator: Whitfield describes in the abstract that the material becomes molten at temperatures in that range just above normal room temperature at which heat generating electronic semi-conducting devices often operate. The material is shaped into a lead and housed by a plastic marker pencil housing, the disclosure further describing the manner of applying the material by rubbing and stating a temperature range for melting the material to be 50° C to 60° C. Taking into account all these features, said lead is considered to be a temperature indicator.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 2859

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lydia M. De Jesús whose telephone number is (703) 306-5982.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (703) 308-3875. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 305-3431 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

LDJ
February 24, 2003



Diego F.F. Gutierrez
Supervisory Patent Examiner
Technology Center 2800